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FILED MAR 15 1983

SENATE FILE 431

BY COMMITTEE ON HUMAN RESOURCES

Approved 3/14 (p. 769)

Passed Senate, Date 3-23-83 (p. 919) Passed House, Date _____
Vote: Ayes 42 Nays 4 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the Iowa commission on the aging by
2 establishing a long-term care ombudsman program and
3 transferring the administration of the care review
4 committees of health care facilities to the Iowa
5 commission on the aging.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

7 SENATE FILE 431
FISCAL NOTE

REQUESTED BY SENATOR CARR

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 431 pursuant to Joint Rule 17.

Senate File 431 provides for the establishment of a long term care ombudsman office within the commission on the aging in accordance with the requirements of the Older Americans Act of 1965. The bill also provides for the duties of the long term care ombudsman and the responsibilities of the commission on the aging relating to the implementation of this Act.

This bill transfers the responsibility for the care review committees of licensed health care facilities from the department of health to the Iowa Commission on the Aging.

The function of the citizens' aide is currently being performed and the proposed legislation would clarify the role of the Commission on Aging in regard to long term care advocacy and oversight. The current position is funded by federal dollars and will continue as such if the bill becomes law.

<u>Source of Revenue</u>	<u>Current Law</u>	<u>Proposed Law</u>
Federal dollars	\$ 48,500	\$ 48,500
Fiscal Effect	\$ =====0	(15845, 83-378, KAC)
SOURCE: COMMISSION ON AGING		

FILED:
MARCH 23, 1983

BY LEGISLATIVE FISCAL BUREAU
DENNIS C. PROUTY, DIRECTOR

1 Section 1. NEW SECTION. 249B.22 PURPOSE. The purpose
2 of this Act is to establish the long-term care ombudsman
3 program operated by the Iowa commission on the aging in ac-
4 cordance with the requirements of the Older Americans Act
5 of 1965, 42 U.S.C. secs. 3026(a)(6)(d), 3027(a)(12) and
6 3030d(a)(10) amended to the effective date of this Act, and
7 to adopt the supporting federal regulations and guidelines
8 for its implementation. In accordance with chapter 17A, the
9 commission on the aging shall adopt and enforce rules for
10 the implementation of this Act.

11 Sec. 2. NEW SECTION. 249B.23 DEFINITIONS. As used in
12 sections 249B.24 through 249B.26:

13 1. "Administrative action" means an action or decision
14 made by an owner, employee, or agent of a long-term care
15 facility, or by a governmental agency, which affects the
16 service provided to residents covered in sections 249B.24
17 through 249B.26.

18 2. "Long-term care facility" means a long-term care unit
19 of a hospital, a foster group home, a group living arrangement,
20 or a facility licensed under section 135C.1 whether the
21 facility is public or private.

22 3. "Ombudsman program" means the state long-term care
23 ombudsman program operated by the commission on the aging
24 and administered by the long-term care ombudsman.

25 4. "Federal Act" means the Older Americans Act of 1965,
26 42 U.S.C. secs. 3001 et seq., as amended to the effective
27 date of this Act.

28 Sec. 3. NEW SECTION. 249B.24 LONG-TERM CARE OMBUDSMAN-
29 -DUTIES. The Iowa commission on the aging, in accordance
30 with section 3027(a)(12) of the federal Act, shall establish
31 the office of long-term care ombudsman within the commission.
32 The long-term care ombudsman shall perform the following
33 duties:

34 1. Investigate and resolve complaints about administrative
35 actions that may adversely affect the health, safety, welfare,

1 or rights of older persons in long-term care facilities.

2 2. Monitor the development and implementation of federal,
3 state, and local laws, regulations, and policies that relate
4 to long-term care facilities in Iowa.

5 3. Provide information to other agencies and to the public
6 about the problems of older persons in long-term care
7 facilities.

8 4. Train volunteers and assist in the development of
9 citizens' organizations to participate in the long-term care
10 ombudsman program.

11 5. Carry out other activities consistent with the ombudsman
12 provisions of the federal Act.

13 The ombudsman shall have access to long-term care
14 facilities, private access to residents, access to residents'
15 personal and medical records, and access to other records
16 maintained by the facilities or governmental agencies
17 pertaining only to the person on whose behalf a complaint
18 is being investigated.

19 Sec. 4. NEW SECTION. 249B.25 AUTHORITY AND RESPONSI-
20 BILITIES OF THE COMMISSION. To ensure compliance with the
21 federal Act the commission on the aging shall establish the
22 following:

23 1. Procedures to protect the confidentiality of a
24 resident's records and files.

25 2. A statewide uniform reporting system.

26 3. Procedures to enable the long-term care ombudsman to
27 elicit, receive, and process complaints regarding adminis-
28 trative actions which may adversely affect the health, safety,
29 welfare, or rights of older persons in long-term care
30 facilities.

31 Sec. 5. NEW SECTION. 249B.26 CARE REVIEW COMMITTEE.

32 1. The care review committee program is under the statewide
33 long-term care ombudsman program within the commission.

34 2. The responsibilities of the care review committee are
35 in accordance with the rules adopted by the commission pur-

1 suant to chapter 17A. When adopting the rules, the commission
2 shall consider the needs of residents of each category of
3 licensed health care facility as defined in chapter 135C.1,
4 subsection 4 and the services each facility may render.

5 Sec. 6. Section 135C.25, Code 1983, is amended by strik-
6 ing the section and inserting in lieu thereof the following:

7 135C.25 CARE REVIEW COMMITTEE APPOINTMENTS--DUTIES.

8 1. Each health care facility shall have a care review
9 committee whose members shall be appointed by the executive
10 director of the Iowa commission on the aging or the director's
11 designee. The administrator of the facility shall not be
12 appointed to the care review committee and shall not be present
13 at committee meetings except upon request of the committee.

14 2. Each care review committee shall periodically review
15 the needs of each individual resident of the facility and
16 shall perform the functions pursuant to sections 135C.38 and
17 249B.26.

18 EXPLANATION

19 This bill provides for the establishment of a long-term
20 care ombudsman office within the commission on the aging in
21 accordance with the requirements of the Older Americans Act
22 of 1965. The bill also provides for the duties of the long-
23 term care ombudsman and the responsibilities of the commission
24 on the aging relating to the implementation of this Act.

25 The bill transfers the responsibility for the care review
26 committees of licensed health care facilities from the depart-
27 ment of health to the Iowa commission on the aging.

28 The bill creates new sections 249B.22 through 249B.26 and
29 refers to several of the sections.

30 The bill takes effect July 1 following its enactment.

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SENATE FILE 431

S-3309

- 1 Amend Senate File 431 as follows:
2 1. Page 3, line 4, by inserting after the word
3 "render." the words "The commission shall coordinate
4 the development of any rules with the mental health
5 and mental retardation commission to the extent the
6 rules would apply to a facility primarily serving
7 persons who are mentally ill, mentally retarded, or
8 developmentally disabled."
9 2. Page 3, line 11, by inserting after the word
10 "designee." the following: "The care review committee
11 for any facility caring primarily for persons who
12 are mentally ill, mentally retarded, or developmentally
13 disabled shall only be appointed after consultation
14 with the director of the division of mental health
15 and mental retardation on the proposed appointments."

S-3309 FILED & ADOPTED
MARCH 23, 1983 (p. 917)

BY ROBERT M. CARR

SENATE FILE 431

S-3313

- 1 Amend Senate File 431 as follows:
2 1. Page 2, by inserting after page 12 the follow-
3 ing:
4 "6. Report annually to the general assembly on the
5 activities of the ombudsman's office."

S-3313 FILED & WITHDRAWN
MARCH 23, 1983 (p. 919)

BY JULIA B. GENTLEMAN

SENATE FILE 431

S-3315

- 1 Amend Senate File 431 as follows:
2 1. Page 2, by inserting after line 12, the follow-
3 ing:
4 "6. Report annually to the general assembly on the
5 activities of the ombudsman's office."

S-3315 FILED & ADOPTED
MARCH 23, 1983 (p. 918)

BY JULIA B. GENTLEMAN

SENATE FILE 431

BY COMMITTEE ON HUMAN RESOURCES

H. F. 476 substituted 4/8/83

(AS AMENDED AND PASSED BY THE SENATE MARCH 23, 1983)

Re Passed Senate, Date 4-18-83 (p. 1279) Passed House, Date 4-8-83 (p. 1150)

Vote: Ayes 40 Nays 5 Vote: Ayes 96 Nays 0

Approved May 2, 1983 (p. 1515)

A BILL FOR

1 An Act relating to the Iowa commission on the aging by
2 establishing a long-term care ombudsman program and
3 transferring the administration of the care review
4 committees of health care facilities to the Iowa
5 commission on the aging.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE AMENDMENT TO SENATE FILE 431

S-3502

1 Amend Senate File 431 as amended, passed and
2 reprinted by the Senate, as follows:

3 1. Page 3, line 11, by adding after the word
4 "disabled." the following: "The commission shall
5 coordinate the development of any rules with other
6 state agencies."

7 2. Page 3, line 18, by inserting before the word
8 "The" the following: "A person shall not be appointed
9 a member of a care review committee for a health care
10 facility unless the person is a resident of the service
11 area where the facility is located."

12 3. Page 3, line 22, by adding after the word
13 "appointments." the following: "Recommendations to
14 the executive director or the director's designee
15 for membership on care review committees are encouraged
16 from any agency, organization, or individual."

S-3502 FILED
APRIL 12, 1983

RECEIVED FROM THE HOUSE

Senate concurred 4/18/83 (p. 1279)

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1 Section 1. NEW SECTION. 249B.22 PURPOSE. The purpose
2 of this Act is to establish the long-term care ombudsman
3 program operated by the Iowa commission on the aging in ac-
4 cordance with the requirements of the Older Americans Act
5 of 1965, 42 U.S.C. secs. 3026(a)(6)(d), 3027(a)(12) and
6 3030d(a)(10) amended to the effective date of this Act, and
7 to adopt the supporting federal regulations and guidelines
8 for its implementation. In accordance with chapter 17A, the
9 commission on the aging shall adopt and enforce rules for
10 the implementation of this Act.

11 Sec. 2. NEW SECTION. 249B.23 DEFINITIONS. As used in
12 sections 249B.24 through 249B.26:

13 1. "Administrative action" means an action or decision
14 made by an owner, employee, or agent of a long-term care
15 facility, or by a governmental agency, which affects the
16 service provided to residents covered in sections 249B.24
17 through 249B.26.

18 2. "Long-term care facility" means a long-term care unit
19 of a hospital, a foster group home, a group living arrangement,
20 or a facility licensed under section 135C.1 whether the
21 facility is public or private.

22 3. "Ombudsman program" means the state long-term care
23 ombudsman program operated by the commission on the aging
24 and administered by the long-term care ombudsman.

25 4. "Federal Act" means the Older Americans Act of 1965,
26 42 U.S.C. secs. 3001 et seq., as amended to the effective
27 date of this Act.

28 Sec. 3. NEW SECTION. 249B.24 LONG-TERM CARE OMBUDSMAN-
29 -DUTIES. The Iowa commission on the aging, in accordance
30 with section 3027(a)(12) of the federal Act, shall establish
31 the office of long-term care ombudsman within the commission.
32 The long-term care ombudsman shall perform the following
33 duties:

34 1. Investigate and resolve complaints about administrative
35 actions that may adversely affect the health, safety, welfare,

1 or rights of older persons in long-term care facilities.

2 2. Monitor the development and implementation of federal,
3 state, and local laws, regulations, and policies that relate
4 to long-term care facilities in Iowa.

5 3. Provide information to other agencies and to the public
6 about the problems of older persons in long-term care
7 facilities.

8 4. Train volunteers and assist in the development of
9 citizens' organizations to participate in the long-term care
10 ombudsman program.

11 5. Carry out other activities consistent with the ombudsman
12 provisions of the federal Act.

13 6. Report annually to the general assembly on the
14 activities of the ombudsman's office.

15 The ombudsman shall have access to long-term care
16 facilities, private access to residents, access to residents'
17 personal and medical records, and access to other records
18 maintained by the facilities or governmental agencies
19 pertaining only to the person on whose behalf a complaint
20 is being investigated.

21 Sec. 4. NEW SECTION. 249B.25 AUTHORITY AND RESPONSI-
22 BILITIES OF THE COMMISSION. To ensure compliance with the
23 federal Act the commission on the aging shall establish the
24 following:

25 1. Procedures to protect the confidentiality of a
26 resident's records and files.

27 2. A statewide uniform reporting system.

28 3. Procedures to enable the long-term care ombudsman to
29 elicit, receive, and process complaints regarding adminis-
30 trative actions which may adversely affect the health, safety,
31 welfare, or rights of older persons in long-term care
32 facilities.

33 Sec. 5. NEW SECTION. 249B.26 CARE REVIEW COMMITTEE.

34 1. The care review committee program is under the statewide
35 long-term care ombudsman program within the commission.

3470 1 2. The responsibilities of the care review committee are
2 in accordance with the rules adopted by the commission pur-
3 suant to chapter 17A. When adopting the rules, the commission
4 shall consider the needs of residents of each category of
5 licensed health care facility as defined in chapter 135C.1,
6 subsection 4 and the services each facility may render. The
7 commission shall coordinate the development of any rules with
8 the mental health and mental retardation commission to the
9 extent the rules would apply to a facility primarily serving
10 persons who are mentally ill, mentally retarded, or
11 developmentally disabled.

12 Sec. 6. Section 135C.25, Code 1983, is amended by strik-
13 ing the section and inserting in lieu thereof the following:

14 135C.25 CARE REVIEW COMMITTEE APPOINTMENTS--DUTIES.

3470 15 1. Each health care facility shall have a care review
3553 16 committee whose members shall be appointed by the executive
17 director of the Iowa commission on the aging or the director's
3570 18 designee. The care review committee for any facility caring
19 primarily for persons who are mentally ill, mentally retarded,
20 or developmentally disabled shall only be appointed after
21 consultation with the director of the division of mental
22 health and mental retardation on the proposed appointments.
23 The administrator of the facility shall not be appointed to
24 the care review committee and shall not be present at committee
25 meetings except upon request of the committee.

26 2. Each care review committee shall periodically review
27 the needs of each individual resident of the facility and
28 shall perform the functions pursuant to sections 135C.38 and
29 249B.26.

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SENATE FILE 431

H-3470

1 Amend Senate File 431 as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 3, by striking lines 6 through 11 and
4 inserting in lieu thereof the following: "subsection
5 4 and the services each facility may render. The
6 commission shall coordinate the development of any
7 rules with other state agencies."

8 2. Page 3, by striking lines 18 through 22 and
9 inserting in lieu thereof the following: "designee.
10 Recommendations to the executive director or the
11 director's designee for membership on care review
12 committees are encouraged from any agency,
13 organization, or individual."

H-3470 FILED MARCH 30, 1983 BY COPENHAVER of Buchanan
A. Adopted as amended by 3586 4/8/83 (p. 1149)
B. Adopted " " " " (p. 1150)

SENATE FILE 431

H-3504

1 Amend Senate File 431 as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 3, by striking lines 17 and 18 and
4 inserting in lieu thereof the following: "director
5 of the Iowa commission on the aging. A person shall
6 not be appointed a member of a care review committee
7 for a health care facility unless the person is a
8 resident of the service area where the facility is
9 located. The care review committee for any facility
10 caring".

H-3504 FILED MARCH 31, 1983 BY DAGGETT of Taylor
ZIMMERMAN of Dallas
2/15 4/8/83 (p. 1149)

SENATE FILE 431

H-3553

1 Amend Senate File 431 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 3, lines 17 and 18, by striking the words
4 "or the director's designee".

H-3553 FILED APRIL 6, 1983 BY DAGGETT of Taylor
Lore 4/8/83 (p. 1149)

SENATE FILE 431

H-3570

1 Amend amendment H-3504 to Senate File 431 as amended,
2 passed and reprinted by the Senate as follows:
3 1. Page 1, line 5, by adding the following after the
4 word "aging": "or the director's designee".

H-3570 FILED APRIL 7, 1983

BY ZIMMERMAN of Dallas

Placed out of order 4/8/83 (p. 1149)

SENATE FILE 431

H-3572

1 Amend Senate File 431 as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 3, line 18, by inserting before the word "The"
4 the following: "A person shall not be appointed a member
5 of a care review committee for a health care facility unless
6 the person is a resident of the service area where the facility
7 is located."

H-3572 FILED APRIL 7, 1983

BY DAGGETT of Taylor

Adopted 4/8/83 (p. 1150)

SENATE FILE 431

H-3580

1 Amend amendment H-3470 to Senate File 431 as amended,
2 passed and reprinted by the Senate as follows:
3 1. Page 1, by striking lines 3 through 7 and
4 inserting in lieu thereof the following:
5 "1. Page 3, line 11, by adding the following after
6 the word "disabled.": "The commission shall coordinate
7 the development of any rules with other state agencies."
8 2. Page 1, by striking lines 8 through 13 and inserting
9 in lieu thereof the following:
10 "2. Page 3, line 22, by adding after the word
11 "appointments." the following: "Recommendations to the
12 executive director or the director's designee for
13 membership on care review committees are encouraged
14 from any agency, organization, or individual."

H-3580 FILED APRIL 8, 1983

BY KREWSON of Polk

DIVISIONS A AND B ADOPTED (p. 1149)
(p. 1150)

COPENHAVER of Buchanan

SENATE FILE 431

AN ACT

RELATING TO THE IOWA COMMISSION ON THE AGING BY ESTABLISHING A LONG-TERM CARE OMBUDSMAN PROGRAM AND TRANSFERRING THE ADMINISTRATION OF THE CARE REVIEW COMMITTEES OF HEALTH CARE FACILITIES TO THE IOWA COMMISSION ON THE AGING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 249B.22 PURPOSE. The purpose of this Act is to establish the long-term care ombudsman program operated by the Iowa commission on the aging in accordance with the requirements of the Older Americans Act of 1965, 42 U.S.C. secs. 3026(a)(6)(d), 3027(a)(12) and 3030d(a)(10) amended to the effective date of this Act, and to adopt the supporting federal regulations and guidelines for its implementation. In accordance with chapter 17A, the commission on the aging shall adopt and enforce rules for the implementation of this Act.

Sec. 2. NEW SECTION. 249B.23 DEFINITIONS. As used in sections 249B.24 through 249B.26:

1. "Administrative action" means an action or decision made by an owner, employee, or agent of a long-term care facility, or by a governmental agency, which affects the service provided to residents covered in sections 249B.24 through 249B.26.
2. "Long-term care facility" means a long-term care unit of a hospital, a foster group home, a group living arrangement, or a facility licensed under section 135C.1 whether the facility is public or private.
3. "Ombudsman program" means the state long-term care ombudsman program operated by the commission on the aging and administered by the long-term care ombudsman.
4. "Federal Act" means the Older Americans Act of 1965, 42 U.S.C. secs. 3001 et seq., as amended to the effective date of this Act.

Sec. 3. NEW SECTION. 249B.24 LONG-TERM CARE OMBUDSMAN-DUTIES. The Iowa commission on the aging, in accordance with section 3027(a)(12) of the federal Act, shall establish the office of long-term care ombudsman within the commission. The long-term care ombudsman shall perform the following duties:

1. Investigate and resolve complaints about administrative actions that may adversely affect the health, safety, welfare, or rights of older persons in long-term care facilities.
2. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care facilities in Iowa.
3. Provide information to other agencies and to the public about the problems of older persons in long-term care facilities.
4. Train volunteers and assist in the development of citizens' organizations to participate in the long-term care ombudsman program.
5. Carry out other activities consistent with the ombudsman provisions of the federal Act.
6. Report annually to the general assembly on the activities of the ombudsman's office.

The ombudsman shall have access to long-term care facilities, private access to residents, access to residents' personal and medical records, and access to other records maintained by the facilities or governmental agencies pertaining only to the person on whose behalf a complaint is being investigated.

Sec. 4. NEW SECTION. 249B.25 AUTHORITY AND RESPONSIBILITIES OF THE COMMISSION. To ensure compliance with the federal Act the commission on the aging shall establish the following:

1. Procedures to protect the confidentiality of a resident's records and files.

2. A statewide uniform reporting system.

3. Procedures to enable the long-term care ombudsman to elicit, receive, and process complaints regarding administrative actions which may adversely affect the health, safety, welfare, or rights of older persons in long-term care facilities.

Sec. 5. NEW SECTION. 249B.26 CARE REVIEW COMMITTEE.

1. The care review committee program is under the statewide long-term care ombudsman program within the commission.

2. The responsibilities of the care review committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of each category of licensed health care facility as defined in chapter 135C.1, subsection 4 and the services each facility may render. The commission shall coordinate the development of any rules with the mental health and mental retardation commission to the extent the rules would apply to a facility primarily serving persons who are mentally ill, mentally retarded, or developmentally disabled. The commission shall coordinate the development of any rules with other state agencies.

Sec. 6. Section 135C.25, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

135C.25 CARE REVIEW COMMITTEE APPOINTMENTS--DUTIES.

1. Each health care facility shall have a care review committee whose members shall be appointed by the executive director of the Iowa commission on the aging or the director's designee. A person shall not be appointed a member of a care review committee for a health care facility unless the person is a resident of the service area where the facility is located. The care review committee for any facility caring primarily for persons who are mentally ill, mentally retarded, or developmentally disabled shall only be appointed after consultation with the director of the division of mental health and mental retardation on the proposed appointments.

Recommendations to the executive director or the director's designee for membership on care review committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the care review committee and shall not be present at committee meetings except upon request of the committee.

2. Each care review committee shall periodically review the needs of each individual resident of the facility and shall perform the functions pursuant to sections 135C.38 and 249B.26.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 431, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved May 2, 1983

TERRY E. BRANSTAD
Governor